

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v)	CR. NO. 3:06cr126-WHA
)	(WO)
JOHN JENNINGS, II,)	
)	
Defendant.)	

ORDER

This cause is before the court on the Government's Motion for Reconsideration of Memorandum Opinion and Order (Doc. #67). The Government asks this court not to rely on the expert testimony of Dr. Boyer, and to adopt the Magistrate Judge's rejection of that expert testimony, arguing that it is not the product of reliable principles and methods. The court stated in its previous Memorandum Opinion and Order the following:

The Magistrate Judge did not reject as incredible any of the expert testimony, but merely stated that a choice had to be made between the expert opinions. The Magistrate Judge determined, based on Jennings' higher level of functioning and his ability to understand simple and concrete information, and based on the fact that the waiver forms were not complex, that Jennings' waivers were knowing and intelligent.

This court has thoroughly reviewed the evidence presented in this case, including the expert report from Dr. Dana and the transcripts of the two evidentiary hearings. Upon *de novo* review, this court disagrees with the Magistrate Judge's characterization of the record evidence in this case as presenting two conflicting expert opinions. The evaluation performed by Dr. Dana was for the purpose of evaluating Jennings' competency. Dr. Dana offered no opinion as to Jennings' ability to understand his *Miranda* rights. Dr. Boyer, on the other hand, evaluated Jennings's ability to understand his *Miranda* rights and the implications of waiving those rights.

(Doc. #64). Accordingly, the court is not persuaded by the Government to alter this analysis or its conclusion, based on expert testimony which was admitted into the record at the evidentiary hearing and which was before the Magistrate Judge and this court without objection

by the Government, that Jennings' Motion to Suppress is due to be granted as to the statements he made to law enforcement officials. The Motion (Doc. #67) is hereby ORDERED DENIED.

Done this 27th day of June, 2007.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE